

**SUPREME COURT CALENDAR
SPECIAL SESSION—FRESNO COUNTY
OCTOBER 8 and 9, 2002**

The following cases are placed upon the calendar of the Supreme Court for a special session at the Fifth Appellate District of the Court of Appeal, 2525 Capitol Street, Fresno, California, on October 8 and 9, 2002.

TUESDAY, OCTOBER 8, 2002—9:00 A.M.

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| (1) | S104701 | In re Rosenkrantz on Habeas Corpus
<i>(Brown, J., not participating; Nicholson, J., assigned
Justice Pro Tempore.)</i> |
| (2) | S102722 | People v. Stanistreet |
| (3) | S071835 | In re Roberts on Habeas Corpus |

2:00 P.M.

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| (4) | S101922 | In re Michele D. |
| (5) | S100745 | In re Jaquan W.
<i>(Baxter, J., not participating; Ramirez, P.J., assigned
Justice Pro Tempore.)</i> |

WEDNESDAY, OCTOBER 9, 2002—9:00 A.M.

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| (6) | S097308 | Advanced Bionics v. Medtronic, Inc. |
| (7) | S097725 | People v. Walker |
| (8) | S101047 | Humphrey v. Appellate Division of the Los Angeles County
Superior Court; (People) |

1:30 P.M.

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| (9) | S103427 | In re John Z. |
| (10) | S022173 | People v. Clifford Stanley Bolden <i>[Automatic Appeal]</i> |

GEORGE
Chief Justice

If exhibits are to be transmitted to this court, counsel must comply with Rule 18(c), California Rules of Court.

**SUPREME COURT CALENDAR
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The following case summaries are issued to inform the public and the press of cases that the Supreme Court has scheduled for oral argument and of their general subject matter. Generally, the descriptions set out below are reproduced from the original news release issued when review in each of these matters was granted and are provided for the convenience of the public and the press. The descriptions do not necessarily reflect the view of the court or define the specific issues that will be addressed by the court.

TUESDAY, OCTOBER 8, 2002—9:00 A.M.

(1) In re Rosenkrantz on Habeas Corpus, S104701 (Brown, J., not participating; Nicholson, J., assigned Justice Pro Tempore.)

#02-68 In re Rosenkrantz on Habeas Corpus, S104701. (B151016; 95 Cal.App.4th 358.) Petition for review after the Court of Appeal affirmed an order granting relief in a proceeding for a writ of habeas corpus. This case includes the following issues: (1) When the Governor, pursuant to Penal Code section 3041.2, determines that a prisoner should not be released on parole, reversing a contrary decision of the Board of Prison Terms, is the Governor's decision subject to judicial review? (2) If so, what is the standard of review for such a decision? (3) Did the "law of the case" doctrine preclude the Governor from exercising his power under Penal Code section 3041.2 to reverse a parole decision of the Board of Prison Terms where the Court of Appeal had previously found no evidence in the record to support the board's decision that petitioner Rosenkrantz was unsuitable for parole and the board had then granted parole under the compulsion of that decision?

(2) People v. Stanistreet, S102722

#02-12 People v. Stanistreet, S102722. (B143501; 93 Cal.App.4th 469.) Petition for review after the Court of Appeal reversed judgments of conviction of criminal offenses. This case includes the following issue: Is Penal Code section 148.6,

which defines the misdemeanor offense of making a false allegation of misconduct against any peace officer, unconstitutional on its face under the First Amendment?

(3) *In re Roberts on Habeas Corpus*, S071835

Original proceeding related to automatic appeal in *People v. Roberts* (1992) 2 Cal.4th 271. This case presents the following issue: Is defendant in this death penalty case entitled to relief on the grounds that (1) the prosecutor knowingly offered perjured testimony at his trial, (2) his conviction was based upon false testimony, or (3) he was denied the effective assistance of counsel?

2:00 P.M.

(4) *In re Michele D.*, S101922

#01-158 *In re Michele D.*, S101922. (B143803; 92 Cal.App.4th 600.) Petition for review after the Court of Appeal affirmed orders in a wardship proceeding. This case includes the following issue: What degree of force, if any, is required to establish kidnapping under Penal Code section 207(a) when the alleged victim is a nonresisting infant? (See *People v. Hill* (2000) 23 Cal.4th 853, 857.)

(5) *In re Jaquan W.*, S100745 (*Baxter, J., not participating; Ramirez, P.J., assigned Justice Pro Tempore.*)

#01-141 *In re Jaquan W.*, S100745. (F038422; unpublished opinion.) Petition for review after the Court of Appeal denied an application for appointment of counsel. This case presents the following issue: Is an indigent parent entitled to appointment of counsel on appeal from a judgment terminating parental rights if the minor child is not a dependent child of the juvenile court? (See Fam. Code, § 7895.)

WEDNESDAY, OCTOBER 9, 2002—9:00 A.M.

(6) Advanced Bionics v. Medtronic, Inc., S097308

#01-62 Advanced Bionics v. Medtronic, Inc., S097308. (B144465; 87 Cal.App.4th 1235.) Petition for review after the Court of Appeal affirmed the issuance of a temporary restraining order in a civil action. This case includes the following issue: Under what circumstances, if any, may a court in California in a declaratory relief action involving the validity and applicability in California of a noncompetition agreement entered into outside California enjoin the defendant in the action from pursuing a subsequently filed action that the party instituted in another state?

(7) People v. Walker, S097725

#01-85 People v. Walker, S097725. (C030891; 88 Cal.App.4th 227.) Petition for review after the Court of Appeal modified and affirmed judgments of conviction of criminal offenses. This case presents the following issue: May an on-bail enhancement (Pen. Code, § 12022.1) be imposed on a sentence for failure to appear while on bail (Pen. Code, § 1320.5)?

(8) Humphrey v. Appellate Division of the Los Angeles County Superior Court; (People), S101047

#01-156 Humphrey v. Appellate Division of the Los Angeles County Superior Court; (People), S101047. (B149998; 91 Cal.App.4th 948.) Petition for review after the Court of Appeal granted a peremptory writ of mandate. This case includes the following issue: Must an application for a search warrant under Penal Code section 1524.1, requiring an accused to supply a blood sample to be tested for the human immunodeficiency virus, be supported by an affidavit that is based on personal knowledge of the affiant rather than by an affidavit that is based on information and belief?

1:30 P.M.

(9) In re John Z., S103427

#02-28 In re John Z., S103427. (C036210; 94 Cal.App.4th 33.) Petition for review after the Court of Appeal affirmed orders in a wardship proceeding. This case presents the following issue: Is the crime of forcible rape committed when a female victim consents to the initial penetration but withdraws consent during intercourse and intercourse continues against her will?

(10) People v. Clifford Stanley Bolden, S022173 [Automatic Appeal]

This matter is an automatic appeal from a judgment of death.